erty, by misstating his age, he was required to give up the property, but not to pay for its use and occupation.[25]

The effect of the principal case in England is to allow the party defrauded by the infant to recover the property, surrendered in consequence of the contract, provided that it is still in the possession of the infant. The court specifically says[26] that there is no liability to account, since there is no fiduciary relation, and refuses to give a judgment *in personam* to pay an equivalent sum out of his present or future resources. It is probable that the effect of the principal case will be the abolishment of the present rule[27] in England, that if upon the bankruptcy of an infant, there be a claim arising out of a transaction, identical with the principal case, a sum is recoverable out of his estate, even though it is impossible to trace the specific funds borrowed. It is submitted that the result of the decision under discussion is inequitable and an undue hardship upon the plaintiff, whose sole remedy is to bring criminal prosecution for obtaining money under false pretenses.[28] Most courts in the United States have given similar immunity to infants, out of consideration for youthful improvidence in general. However, there is a noticeable tendency to deal with an infant's fraud, though connected with a contract, as with the fraudulent acts of adults.[29] The following extracts from a decision[30] which has taken the broadest view of the situation, is an excellent statement of a principle which, it is submitted, might well be universally adopted: "When a minor whose appearance justifies belief in such a statement induces a contract, which is reasonable, by false assurances that he is of the age of majority, he should be, and is estopped to repudiate it, and should be compelled to carry it out or to fully restore *status quo*, by returning what he got and making compensation if he has wasted it."

A. L. L.

INTERSTATE COMMERCE—PROSTITUTION—WHITE SLAVE ACT—The Act of Congress known as the White Slave Act[1] prohibits the interstate transportation of a woman or girl "for the purpose of

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[25] Lempriére v. Lange, 12 Ch. Div. 675 (1879).

[26] P. 110.

[27] *Ex parte* Unity Bank; *Re* King, 3 De G. & J. 63 (Eng. 1858).

[28] Com. v. Ferguson, 121 S. W. Rep. (Ky. 1909).

[29] Pemberton, *etc.*, Assoc. v. Adams, 53 N. J. Eq. 258 (1895), reached a conclusion contrary to the principal case, under precisely identical facts. See also Ferguson v. Bobo, 154 Miss. 121 (1876); Benedetto v. Holden, 21 Grant. Ch. 222 (Ont. 1894). Statutes have been passed in some states providing that an infant cannot disaffirm a contract induced by his misrepresentation as to his age. Ia. Code, §3190; Kan. Gen. Stat., §4184; Wash. Gen. Stat., §4582.

[30] Commander v. Brazil, *supra*, n. 2.

[1] Act of June 25, 1910, c. 395, 36 Stat. 825, U. S. Comp. St. Supp. 1911, p. 1343, which provides in part:

"That any person who shall knowingly transport or cause to be trans-

prostitution or debauchery or any other immoral purpose." In a prosecution for violating the White Slave Act, the Circuit Court of Appeals held that while the term "prostitution" involves the financial element and signifies commercialized vice, the words "other immoral purpose" as used in the statute are not limited to kindred offenses involving the sharing of profits by the hire of the woman's body, and hence their meaning was fulfilled by sexual intercourse between the female and the defendant involving no financial gain.[2]

The constitutionality of the Mann Act was settled beyond debate in the first White Slave Case.[3] The United State Supreme Court adopted the view that the interstate transportation of persons and the interstate transportation of things rests upon the same power of Congress; that the power of Congress to regulate each is identical both as to its source and its extent. It follows, therefore, that if Congress can prohibit the interstate transportation of things because the common interests require it, Congress may also prohibit the interstate transportation of women and girls for immoral purposes, if in the judgment of Congress, the common interests require it.[4] Mr. Justice McKenna, in the case of *Hoke* v. *United States,*[5] speaking for a unanimous court, in sustaining the White Slave Act used this language: "And surely, if the facility of interstate transportation can be taken away from the demoralization of lotteries, the debasement of obscene literature, the contagion of diseased cattle or persons, the impurity of foods or drugs, the like facility can be taken away from the systematic enticement to and the enslavement in prostitution and debauchery of women, and, more insistently of girls."

The only question, then, on which doubt might be entertained, is whether the interstate transportation of a woman or girl for the purpose of having sexual intercourse with her is an immoral purpose within the meaning of the statute. It was argued, in the principal case, that the words "prostitution or debauchery or any other immoral purpose" do not cover sexual intercourse and that the person who furnishes the transportation cannot be found guilty under

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ported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, . . . any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, . . . or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, . . . in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, . . . whereby any such woman or girl shall be transported in interstate or foreign commerce, . . . shall be deemed guilty of a felony, *etc.*"

[2] Johnson v. United States, 215 Fed. Rep. 679 (1914).

[3] Hoke v. United States, 227 U. S. 309 (1913).

[4] Passenger Cases, 7 How. 283 (U. S. 1849); Lottery Cases, 188 U. S. 321 (1902); Bennett v. United States, 194 Fed. Rep. 631 (1912).

[5] *Supra,* n. 3.

the Act unless he shares in or somehow profits by the hire of the woman's body. All will admit that full effect must be given to the intention of Congress as gathered from the words of the statute. There can be no doubt as to what class was aimed at by the clause forbidding the interstate transportation of women or girls for purposes of "prostitution." It refers to women who for hire offer their bodies to indiscriminate intercourse with men.[6] "Debauchery," the other named species, is restricted by its association with the first species to sexual debauchery—a leading of a chaste girl into unchastity. No financial element is necessarily involved in sexual debauchery.[7] Now, the addition of the words, "or for any other immoral purpose," after the word "debauchery" must have been made for some practical object. Those added words would seem to show that Congress had in view the protection of society against a class of women other than those who might be brought in the state for purposes of prostitution or debauchery. In forbidding the interstate transportation of women "for any other immoral purpose," Congress evidently thought that there were purposes in connection with the transportation of women, which as in the case of transportation for prostitution or debauchery, were to be deemed immoral.

It may be admitted that in accordance with the rule of *ejusdem generis,* the immoral purpose referred to by the words "any other immoral purpose," must be of the same general class or kind as the particular purpose of prostitution or debauchery specified in the same clause of the statute,[8] and it would seem that the immoral purpose for which the defendant was convicted in the principal case is of the same general class or kind as the one that controls in the transportation of women or girls for the purpose of prostitution or debauchery.[9] We must assume that in using the words "for any other immoral purpose," Congress had reference to the views commonly entertained among the people of the United States as to what is moral or immoral in the relations between man and woman in the matter of sexual intercourse. Those views may not be overlooked in determining questions involving the morality or immorality of sexual intercourse between particular persons.[10] In *United States* v. *Wittberger,*[11] Chief Justice Marshall said that "though penal laws are to be construed strictly, they are not to be construed so strictly as to defeat the obvious intention of the legislature. The maxim is not to be applied as to narrow the words of the statute to the exclusion of cases, which those words, in their ordinary acceptation,

[6] United States v. Hoke, 187 Fed. Rep. 992 (1911).

[7] Athanasaw v. United States, 227 U. S. 327 (1913).

[8] 2 Lewis Sunderland Stat. Const., §423.

[9] United States v. Flaspoller, 208 Fed. Rep. 1007 (1913); Suslak v. United States, 213 Fed. Rep. 913 (1914).

[10] United States v. Bitty, 208 U. S. 393 (1907).

[11] United States v. Wilteeyer, 5 Wheat. 76 (U. S. 1820).

or in that sense in which the legislature has obviously used them, would comprehend. The intention of the legislature is to be collected from the words they employ. . . . The case must be a strong one indeed, which would justify a court in departing from the plain meaning of words, especially in a penal act, in search of an intention which the words themselves did not suggest."

The small amount of authority does not present any very satisfactory solution of the problem, but it seems clear that "commercialized vice" or "the traffic in women for gain" is not the common ground, that the attribute in common indicative of the genus is sexual immorality, and that fornication and adultery are species of that genus. This conclusion is fortified by the case of *United States* v. *Bitty*.[12] The Supreme Court in construing the prohibition of the Immigration Act against the importation of alien women "for the purpose of prostitution or any other immoral purpose," held that the latter phrase meant unlawful sexual intercourse regardless of financial considerations. And Mr. Justice McKenna in a very recent decision [13] announced the view that the White Slave Act of 1910 was designed to reach acts which might ultimately lead to that phase of debauchery which consisted in sexual actions.

It is manifest that the Act does not undertake to prohibit the woman from traveling from one state to another of her own volition, and in the supposed exercise of her inherent personal rights, no matter what her purpose as to her future conduct may be. The primary thing forbidden is the inducing of the person to come into the state with unlawful purpose and in aid of such unlawful purpose.[14] So, in *Wilson* v. *United States*,[15] the offense denounced by the White Slave Act was held to be complete when the transportation in interstate commerce was accomplished. There is no *locus penitentiae* thereafter.

G. W. K.

SALES—NATURE OF THE RIGHT OF INSPECTION—It is universally admitted by courts and text writers that in a sale one of the obligations of the seller is to allow the buyer a right of inspection. We find in the books elaborate consideration and comparative unanimity of opinion on the questions of time and place and expense of inspection, and the extent to which the buyer is entitled to destroy the goods in making his inspection, but the authorities are singularly silent concerning the nature of the right, to what it relates, and what is the effect on the rights of the parties when

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[12] *Supra*, n. 10.

[13] Athanasaw v. United States, *supra*, n. 6.

[14] Bennett v. United States, 227 U. S. 333 (1913).

[15] 234 U. S. 347 (1914).